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WASHINGTON DC 20007

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|------------------------------------|---|-------------------------|
| In re Application of | : | |
| Landesmann | : | |
| Application No. 09/888,439 | : | DECISION ON APPLICATION |
| Filed: June 26, 2001 | : | FOR |
| Atty Docket No. 084561-0108 | : | PATENT TERM ADJUSTMENT |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 CFR § 1.705(b)/(d)," filed April 6, 2010, which is properly treated under 37 CFR 1.705(b). Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from four hundred and eighty-two (482) days to one thousand, two hundred and forty-three (1,243) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the patent term adjustment determination at the time of the mailing of the notice of allowance is **one thousand, two hundred and eighty-eight (1,288) days** (1,529 days of Office delay - 241 days of applicant delay). A copy of the updated PAIR screen is enclosed.

On January 25, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 482 days. Applicants timely filed the instant application for patent term adjustment.¹

¹ PALM finance records indicate the issue fee was paid on April 7, 2010.

Applicants dispute the reductions for applicant delay for the filing an Information Disclosure Statements (IDS) on December 18, 2006², October 23, 2007, March 18, 2008.

A review of the application file history reveals that the Information Disclosure Statements filed October 23, 2007, March 18, 2008, and April 10, 2009, were filed after the filing of a Notice of Appeal on September 20, 2005, and during a period during which the application was under appellate review. The reductions were not warranted. **Accordingly, the reductions of 403 days, 67 days, and 298 are being removed.**

It is also noted that applicant suggests that an adjustment to the patent term adjustment of 56 is warranted pursuant to 37 CFR 1.702(a)(3) for the failure of the Office to act on the application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences where at least one allowed claim remains. Applicant's argument is well taken, however, the period of adjustment is 38 days, not 56 days with said period beginning August 19, 2009, the day after the date that is four months after the date of a final decision by the Board of Patent Appeals and Interferences where at least one allowable claim remains, and ending on January 25, 2010, the date of mailing of a notice of allowance. See 37 CFR 1.703(a)(5). **Accordingly, a period of adjustment of 38 days is being entered.**

The \$200.00 fee as set forth in 37 CFR 1.18(e) was received. No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

² No reduction to the patent term adjustment was entered for the IDS filed December 18, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

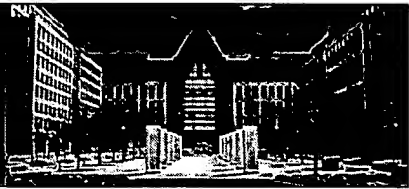
/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 09888439

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

PTA Calculations for Application: 09888439

| | | | |
|-------------------------|------------|---|------|
| Application Filing Date | 06/26/2001 | Overlapping Days Between (A and B) or (A and C) | 0 |
| Issue Date of Patent | | Non-Overlapping USPTO Delays | 1491 |
| A Delays | 62 | PTO Manual Adjustment | 806 |
| B Delays | 0 | Applicant Delay (APPL) | 1009 |
| C Delays | 0 | Total PTA (days) | 1288 |

* - Sorted Column

File Contents History

| Action Number | Action Recorded Date | Action Due Date | Action Code | Action Description | Duration PTO | Duration APPL | Parent Action Number |
|---------------|----------------------|-----------------|-------------|---|--------------|---------------|----------------------|
| 173 | 10/21/2010 | | P028 | Adjustment of PTA Calculation by PTO | 38 | 0 | |
| 172 | 10/21/2010 | | P028 | Adjustment of PTA Calculation by PTO | 758 | 0 | |
| 164 | 01/25/2010 | | MN/= | Mail Notice of Allowance | | 0 | |
| 160 | 01/13/2010 | | MEXIN | Mail Examiner Interview Summary (PTOL - 413) | | 0 | |
| 163 | 01/12/2010 | | IREV | Issue Revision Completed | | 0 | |
| 162 | 01/12/2010 | | DVER | Document Verification | | 0 | |
| 161 | 01/12/2010 | | N/= | Notice of Allowance Data Verification Completed | | 0 | |
| 159 | 01/07/2010 | | CNTA | Notice of Allowability | | 0 | |
| 157 | 12/30/2009 | | LET. | Miscellaneous Incoming Letter | | 0 | |
| 158 | 12/14/2009 | | EXIN | Examiner Interview Summary Record (PTOL - 413) | | 0 | |
| 155 | 11/10/2009 | | LET. | Miscellaneous Incoming Letter | | 0 | |
| 154 | 08/18/2009 | 09/20/2005 | MAPDP | Mail BPAI Decision on Appeal - Affirmed in Part | 1429 | 65 | |
| 153 | 08/17/2009 | | APDP | BPAI Decision - Examiner Affirmed in Part | | 0 | |
| 152 | 07/31/2009 | | MM327-E | Mail BOA miscellaneous communication to applicant | | 0 | |
| 151 | 07/31/2009 | | M327-E | BOA miscellaneous communication to applicant | | 0 | |
| 150 | 06/26/2009 | | APCH | Confirmation of Hearing by Appellant | | 0 | |
| 149 | 06/24/2009 | | MAPPD | Mail Hearing Postponement Denied | | 0 | |
| 148 | 06/23/2009 | | APPD | Hearing Postponement Denied | | 0 | |
| 147 | 06/19/2009 | | APPH | Postponement of Oral Hearing Request | | 0 | |
| 145 | 05/27/2009 | | APNH | Notification of Appeal Hearing | | 0 | |
| 146 | 05/13/2009 | | APOH | Request for Oral Hearing | | 0 | |
| 141 | 04/29/2009 | | APPH | Postponement of Oral Hearing Request | | 0 | |
| 156 | 04/10/2009 | | IDSC | Information Disclosure Statement considered | | 0 | |
| 143 | 04/10/2009 | | RCAP | Reference capture on IDS | | 0 | |
| 142 | 04/10/2009 | 06/16/2008 | M844 | Information Disclosure Statement (IDS) Filed | | 298 | 123 |
| 140 | 04/10/2009 | | WIDS | Information Disclosure Statement (IDS) Filed | | 0 | |
| 139 | 04/02/2009 | | APNH | Notification of Appeal Hearing | | 0 | |
| 138 | 04/02/2009 | | APNH | Notification of Appeal Hearing | | 0 | |
| 136 | 10/16/2008 | | AP_DK_M | Docketing Notice Mailed to Appellant | | 0 | |
| 135 | 10/15/2008 | | APAS | Assignment of Appeal Number | | 0 | |
| 137 | 10/10/2008 | | LET. | Miscellaneous Incoming Letter | | 0 | |
| 132 | 09/11/2008 | | MEXIN | Mail Examiner Interview Summary (PTOL - 413) | | 0 | |
| 131 | 09/05/2008 | | EXIN | Examiner Interview Summary Record (PTOL - 413) | | 0 | |
| 130 | 08/28/2008 | | APWD | Appeal Awaiting BPAI Docketing | | 0 | |
| 129 | 08/11/2008 | | MRBNE | Mail Reply Brief Noted by Examiner | | 0 | |
| 128 | 08/08/2008 | | RBNE | Reply Brief Noted by Examiner | | 0 | |
| 144 | 07/14/2008 | | M844 | Information Disclosure Statement (IDS) Filed | | 0 | |
| 127 | 07/14/2008 | | IDSC | Information Disclosure Statement considered | | 0 | |
| 126 | 07/14/2008 | | WIDS | Information Disclosure Statement (IDS) Filed | | 0 | |
| 125 | 06/18/2008 | | TCRD | Return of Undocketed appeal to the TC | | 0 | |
| 124 | 06/18/2008 | | FWDX | Date Forwarded to Examiner | | 0 | |
| 123 | 06/16/2008 | | APRB | Reply Brief Filed | | 0 | |
| 121 | 04/23/2008 | | PACC | Exam. Ans. Review Complete | | 0 | |
| 120 | 04/16/2008 | | MAPE2 | Mail Supplemental Examiner's Answer | | 0 | |
| 119 | 04/14/2008 | | APE2 | 2nd or Subsequent Examiner's Answer to Appeal Brief | | 0 | |
| 118 | 03/18/2008 | | IDSC | Information Disclosure Statement considered | | 0 | |
| 117 | 03/18/2008 | | RCAP | Reference capture on IDS | | 0 | |
| 116 | 03/18/2008 | 01/11/2008 | M844 | Information Disclosure Statement (IDS) Filed | | 67 | 111 |
| 115 | 03/18/2008 | | WIDS | Information Disclosure Statement (IDS) Filed | | 0 | |
| 114 | 03/04/2008 | | DOCK | Case Docketed to Examiner in GAU | | 0 | |
| 113 | 02/02/2008 | | APBR | Appeal Brief Review Complete | | 0 | |
| 112 | 02/02/2008 | | FWDX | Date Forwarded to Examiner | | 0 | |
| 111 | 01/11/2008 | | RPEA | Resp. to post-examiner ans | | 0 | |
| 110 | 12/31/2007 | | MPEAC | Mail Post-examiner ans. com | | 0 | |
| 109 | 12/27/2007 | | PEAC | Post-examiner ans. com | | 0 | |
| 108 | 12/18/2007 | | MM327 | Mail Miscellaneous Communication to Applicant | | 0 | |

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|------|------------|------------------|--|--------|
| 107 | 12/10/2007 | APRD | Order Returning Undocketed Appeal to the Examiner | 0 |
| 106 | 12/05/2007 | APWD | Appeal Awaiting BPAI Docketing | 0 |
| 105 | 11/29/2007 | M327 | Miscellaneous Communication to Applicant - No Action Count | 0 |
| 103 | 10/23/2007 | IDSC | Information Disclosure Statement considered | 0 |
| 102 | 10/23/2007 | RCAP | Reference capture on IDS | 0 |
| 101 | 10/23/2007 | 09/15/2006 M844 | Information Disclosure Statement (IDS) Filed | 403 73 |
| 100 | 10/23/2007 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 104 | 07/17/2007 | IDSC | Information Disclosure Statement considered | 0 |
| 99 | 07/17/2007 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 98 | 07/17/2007 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 97 | 05/23/2007 | MRBNE | Mail Reply Brief Noted by Examiner | 0 |
| 96 | 05/21/2007 | RBNE | Reply Brief Noted by Examiner | 0 |
| 95 | 04/30/2007 | IDSC | Information Disclosure Statement considered | 0 |
| 91 | 04/30/2007 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 90 | 04/30/2007 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 74 | 03/24/2007 | FWDX | Date Forwarded to Examiner | 0 |
| 94 | 02/27/2007 | IDSC | Information Disclosure Statement considered | 0 |
| 89 | 02/27/2007 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 88 | 02/27/2007 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 93 | 12/18/2006 | IDSC | Information Disclosure Statement considered | 0 |
| 72.7 | 12/18/2006 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 72 | 12/18/2006 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 75 | 09/15/2006 | APOH | Request for Oral Hearing | 0 |
| 73 | 09/15/2006 | APRB | Reply Brief Filed | 0 |
| 71 | 07/17/2006 | MAPEA | Mail Examiner's Answer | 0 |
| 70 | 07/10/2006 | APEA | Examiner's Answer to Appeal Brief | 0 |
| 69 | 04/26/2006 | FWDX | Date Forwarded to Examiner | 0 |
| 68 | 04/20/2006 | AP.B | Appeal Brief Filed | 0 |
| 67 | 04/20/2006 | XT/G | Request for Extension of Time - Granted | 0 |
| 92 | 11/15/2005 | IDSC | Information Disclosure Statement considered | 0 |
| 66.7 | 11/15/2005 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 66 | 11/15/2005 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 65 | 09/20/2005 | 08/20/2005 N/AP | Notice of Appeal Filed | 31 63 |
| 64 | 09/20/2005 | XT/G | Request for Extension of Time - Granted | 0 |
| 63 | 05/20/2005 | MCTFR | Mail Final Rejection (PTOL - 326) | 0 |
| 62 | 05/16/2005 | CTFR | Final Rejection | 0 |
| 61 | 03/10/2005 | TSSCOMP | IFW TSS Processing by Tech Center Complete | 0 |
| 59 | 03/10/2005 | FWDX | Date Forwarded to Examiner | 0 |
| 60 | 02/02/2005 | LET. | Miscellaneous Incoming Letter | 0 |
| 48 | 01/31/2005 | RCAP | Reference capture on IDS | 0 |
| 46.7 | 01/31/2005 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 46 | 01/31/2005 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 44 | 12/28/2004 | MEXIN | Mail Examiner Interview Summary (PTOL - 413) | 0 |
| 43 | 12/15/2004 | EXIN | Examiner Interview Summary Record (PTOL - 413) | 0 |
| 42 | 11/29/2004 | 10/14/2004 MCTRS | Mail Restriction Requirement | 46 38 |
| 41 | 11/29/2004 | CTRS | Requirement for Restriction / Election | 0 |
| 58 | 09/17/2004 | ELC. | Response to Election / Restriction Filed | 0 |
| 39 | 09/17/2004 | FWDX | Date Forwarded to Examiner | 0 |
| 38 | 06/14/2004 | 03/11/2004 A... | Response after Non-Final Action | 95 35 |
| 37 | 06/14/2004 | XT/G | Request for Extension of Time - Granted | 0 |
| 36 | 06/14/2004 | WAMD | Workflow incoming amendment IFW | 0 |
| 40 | 01/21/2004 | EXIN | Examiner Interview Summary Record (PTOL - 413) | 0 |
| 35 | 12/11/2003 | MCTNF | Mail Non-Final Rejection | 0 |
| 34 | 12/01/2003 | CTNF | Non-Final Rejection | 0 |
| 33 | 11/13/2003 | FWDX | Date Forwarded to Examiner | 0 |
| 31 | 11/13/2003 | FWDX | Date Forwarded to Examiner | 0 |
| 29 | 11/13/2003 | ABN9 | Disposal for a RCE / CPA / R129 | 0 |
| 32 | 10/14/2003 | AMSB | Amendment Submitted/Entered with Filing of CPA/RCE | 0 |
| 30 | 10/14/2003 | 09/19/2003 RCEX | Request for Continued Examination (RCE) | 25 23 |
| 28 | 10/14/2003 | XT/G | Request for Extension of Time - Granted | 0 |
| 27 | 09/09/2003 | MCTAV | Mail Advisory Action (PTOL - 303) | 0 |
| 26 | 09/05/2003 | CTAV | Advisory Action (PTOL-303) | 0 |
| 25 | 08/23/2003 | FWDX | Date Forwarded to Examiner | 0 |
| 24 | 08/20/2003 | A.NE | Amendment after Final Rejection | 0 |
| 23 | 06/19/2003 | MCTFR | Mail Final Rejection (PTOL - 326) | 0 |
| 22 | 06/16/2003 | CTFR | Final Rejection | 0 |
| 18 | 04/10/2003 | FWDX | Date Forwarded to Examiner | 0 |
| 57 | 03/11/2003 | AF/D | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | 0 |
| 56 | 03/11/2003 | AF/D | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | 0 |
| 55 | 03/11/2003 | AF/D | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | 0 |
| 54 | 03/11/2003 | AF/D | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | 0 |
| 53 | 03/11/2003 | AF/D | Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received | 0 |
| 17 | 03/11/2003 | 12/11/2002 A... | Response after Non-Final Action | 90 15 |
| 16 | 03/11/2003 | XT/G | Request for Extension of Time - Granted | 0 |
| 15 | 09/11/2002 | 08/26/2002 MCTNF | Mail Non-Final Rejection | 16 -1 |
| 14 | 09/08/2002 | CTNF | Non-Final Rejection | 0 |
| 13 | 05/24/2002 | A.PE | Preliminary Amendment | 0 |
| 11 | 05/01/2002 | MPTDI | Mail-Petition Decision - Dismissed | 0 |
| 9 | 04/23/2002 | DOCK | Case Docketed to Examiner in GAU | 0 |
| 12 | 03/05/2002 | A.PE | Preliminary Amendment | 0 |
| 10 | 03/05/2002 | PET. | Petition Entered | 0 |
| 52.7 | 01/29/2002 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 52 | 01/29/2002 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 7 | 12/31/2001 | MPTDE | Mail-Petition Decision - Denied | 0 |
| 51.7 | 11/08/2001 | M844 | Information Disclosure Statement (IDS) Filed | 0 |
| 51 | 11/08/2001 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 50 | 10/30/2001 | A.PE | Preliminary Amendment | 0 |
| 5 | 10/16/2001 | DOCK | Case Docketed to Examiner in GAU | 0 |
| 49.7 | 09/24/2001 | M844 | Information Disclosure Statement (IDS) Filed | 0 |

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|----|------------|------|--|---|
| 49 | 09/24/2001 | WIDS | Information Disclosure Statement (IDS) Filed | 0 |
| 6 | 09/24/2001 | PET. | Petition Entered | 0 |
| 4 | 07/27/2001 | OIPE | Application Dispatched from OIPE | 0 |
| 3 | 07/25/2001 | C.AD | Correspondence Address Change | 0 |
| 2 | 07/05/2001 | SCAN | IFW Scan & PACR Auto Security Review | 0 |
| 1 | 06/26/2001 | IEXX | Initial Exam Team nn | 0 |

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